

E-Filed on 05/09/07

1 **DIAMOND MCCARTHY LLP**

2 909 Fannin, Suite 1500
 Houston, Texas 77010
 Telephone (713) 333-5100
 Facsimile (713) 333-5199

3 Allan B. Diamond, TX State Bar No. 05801800
 Email: adiamond@diamondmccarthy.com
 Eric D. Madden, TX State Bar No. 24013079
 Email: emadden@diamondmccarthy.com

4 Special Litigation Counsel for USACM Liquidating Trust

5 **LEWIS AND ROCA LLP**

6 3993 Howard Hughes Parkway, Suite 600
 Las Vegas, NV 89169-5996
 Telephone (702) 949-8320
 Facsimile (702) 949-8321

7 Susan M. Freeman, AZ State Bar No. 004199
 Email: sfreeman@lrlaw.com
 Rob Charles, NV State Bar No. 006593
 Email: rcharles@lrlaw.com

8 Counsel for USACM Liquidating Trust

9 **UNITED STATES BANKRUPTCY COURT**
 10 **DISTRICT OF NEVADA**

11 In re:

12 USA COMMERCIAL MORTGAGE
 13 COMPANY,

14 USA CAPITAL REALTY ADVISORS,
 15 LLC,

16 USA CAPITAL DIVERSIFIED TRUST
 17 DEED FUND, LLC,

18 USA CAPITAL FIRST TRUST DEED
 19 FUND, LLC,

20 USA SECURITIES, LLC, Debtors.

21 **Affects:**

22 All Debtors
 23 USA Commercial Mortgage Company
 24 USA Capital Realty Advisors, LLC
 25 USA Capital Diversified Trust Deed Fund, LLC
 26 USA Capital First Trust Deed Fund, LLC
 27 USA Securities, LLC

Case No. BK-S-06-10725-LBR
 Case No. BK-S-06-10726-LBR
 Case No. BK-S-06-10727-LBR
 Case No. BK-S-06-10728-LBR
 Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No.
 BK-S-06-10725 LBR

**MOTION FOR ORDER REQUIRING
 TANAMERA DEVELOPMENT, LLC
 TO PRODUCE ONE OR MORE
 REPRESENTATIVES FOR
 EXAMINATION PURSUANT TO
 FEDERAL RULE OF
 BANKRUPTCY PROCEDURE 2004**

[No hearing required]

Pursuant to Federal Rule of Bankruptcy Procedure 2004, the USACM Liquidating Trust (the "Trust" or "Movant") hereby moves this Court for an order requiring Tanamera Development, LLC ("Tanamera") to produce one or more representatives, as set forth in the subpoena to be issued under Federal Rule of Bankruptcy Procedure 9016, to appear for

1 examination at the office of Esquire Deposition Services, 1 East Liberty Street, 6th Floor,
2 Reno, Nevada 89504, on a business day no earlier than ten (10) business days after the
3 filing of this Motion and no later than June 30, 2007, or at such other mutually agreeable
4 location, date, and time, and continuing from day to day thereafter until completed.
5

6 This Motion is further explained in the following Memorandum.

7 **Memorandum**

8 The Movant seeks information concerning various transactions between Tanamera
9 and USACM, the other debtors in the above-captioned cases (together with USACM, the
10 “Debtors”), and the Debtors’ affiliates, subsidiaries, parents, or otherwise related entities.
11 The Movant seeks this information to assist in the collection of the assets and the
12 investigation of the liabilities of the Debtors.

13 The requested discovery from Tanamera is well within the scope of examination
14 permitted under Bankruptcy Rule 2004, which includes:

15 [t]he acts, conduct, or property or . . . the liabilities and financial condition
16 of the debtor, or . . . any matter which may affect the administration of the
17 debtor’s estate, or to the debtor’s right to a discharge. In a . . .
18 reorganization case under chapter 11 of the Code, . . . the examination may
19 also relate to the operation of any business and the desirability of its
20 continuance, the source of any money or property acquired or to be acquired
21 by the debtor for purposes of consummating a plan and the consideration
given or offered therefore, and any other matter relevant to the case or to the
formulation of a plan.¹

22 **Conclusion**

23 Accordingly, the Movant requests that this Court enter the form of order submitted
24 with this Motion.

25
26
1 FED.R. BANKR. P. 2004(b).

1 Dated: May 9, 2007.

2 **DIAMOND MCCARTHY LLP**

3

4 By: /s/ Eric D. Madden
5 Allan B. Diamond, TX 05801800 (pro hac vice)
6 William T. Reid, IV, TX 00788817 (pro hac vice)
7 Eric D. Madden, TX 24013079 (pro hac vice)
8 909 Fannin, Suite 1500
9 Houston, Texas 77010
10 (713) 333-5100 (telephone)
11 (713) 333-5199 (facsimile)

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Special Litigation Counsel for
USACM Liquidating Trust

LEWIS AND ROCA LLP

By: /s/ Rob Charles
Susan M. Freeman, AZ 4199 (pro hac vice)
Rob Charles, NV 6593
3993 Howard Hughes Parkway, Suite 600
Las Vegas, Nevada 89169-5996
(702) 949-8320 (telephone)
(702) 949-8321 (facsimile)

Counsel for USACM Liquidating Trust

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion has been served on May 9, 2007, by electronic transmission and by United States Mail, first class, postage prepaid and properly addressed to counsel for Tanamera Development, LLC at the following address:

Kaaran Thomas
McDonald Carano Wilson, LLP
100 West Libert Street, 10th Floor
Reno, NV 89505
kthomas@mcdonaldcarano.com

/s/ Eric D. Madden
Eric D. Madden